

Regular Session, 2010

SENATE BILL NO. 780

BY SENATORS CHEEK, ADLEY, ALARIO, APPEL, BROOME, CHABERT, CLAITOR,
DONAHUE, DORSEY, DUPLESSIS, ERDEY, N. GAUTREAUX,
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THOMPSON AND WALSWORTH AND REPRESENTATIVE
BURFORD

SEX OFFENSES. Provides relative to penalties for certain second felony sex offenses and
for registration and certain employment prohibitions for sex offenders. (gov sig)

AN ACT

To amend and reenact R.S. 15:529.1(A)(1)(a) and 543.1 and to enact R.S. 15:553, relative
to sex offenders; to provide for sentencing for second sexual offenses; to prohibit
certain types of employment of sex offenders; to provide for penalties; and to
provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:529.1(A)(1)(a) and 543.1 are hereby amended and reenacted and
R.S. 15:553 is hereby enacted to read as follows:

§529.1. Sentences for second and subsequent offenses; certificate of warden or
clerk of court in the state of Louisiana as evidence

A.(1) * * *

(a)(i) If the second felony is such that upon a first conviction the offender
would be punishable by imprisonment for any term less than his natural life, then the
sentence to imprisonment shall be for a determinate term not less than one-half the
longest term and not more than twice the longest term prescribed for a first
conviction; or

(ii) If the second felony and the prior felony are felonies defined in R.S.

15:541 as sex offenses involving victims who are under the age of eighteen at the time of the commission of the offenses, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence. The provisions of this Item shall only apply to second felony offenses occurring on or after August 15, 2010.

* * *

§543.1. Written notification by the courts; form to be used

STATE V. _____ JUDICIAL DISTRICT COURT

DOCKET # _____ PARISH OF _____

DIVISION _____ STATE OF LOUISIANA

Notification to Sex Offender

In accordance with R.S. 15:543, this court has the duty to provide _____ (name of offender) with the information necessary for awareness of sex offender and child predator registration requirements.

_____ has pled guilty to or been found guilty of a violation of R.S. _____. Based on the provisions of Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950 and the substance of the statute violated, IT IS ORDERED that _____ must register for the period of _____ from the date of his release from prison, being placed on parole, supervised release or probation, or from the date of his conviction, if the offender is not sentenced to a term of imprisonment or jail. Additionally, since _____ (hereinafter referred to as offender) has been convicted of:

() An aggravated offense as defined in R.S. 15:541, the offender must update his/her registration, in person, every ~~90~~ **ninety** days from the date of initial registration, with the appropriate law enforcement agencies as provided in R.S. 15:542.

() A sexual offense involving a victim who is a minor as defined in R.S. 15:541, the offender must update his/her registration, in person, every six months from the date of initial registration, with the appropriate law enforcement agencies

1 as provided in R.S. 15:542.

2 () An offense not defined in R.S. 15:541, as an aggravated offense or a
3 sexual offense involving a victim who is a minor, the offender must update his/her
4 registration, in person, annually from the date of initial registration, with the
5 appropriate law enforcement agencies as provided in R.S. 15:542.

6 Based on the foregoing you are hereby notified of the following:

7 (1) The offender, within three (3) business days of establishing residence in
8 Louisiana or if a current resident, within three (3) business days after conviction or
9 adjudication if not immediately incarcerated or taken into custody, or within three
10 (3) business days after release from confinement, shall obtain and provide the
11 following information to each sheriff or police department in accordance with R.S.
12 15:542(B) (except in Orleans Parish where registration shall take place with the New
13 Orleans Police Department):

14 (a) Name and any aliases used by the offender.

15 (b) Physical address or addresses of residence.

16 (c) Name and physical address of place of employment. If the offender does
17 not have a fixed place of employment, the offender shall provide information with
18 as much specificity as possible regarding the places where he works, including but
19 not limited to travel routes used by the offender.

20 (d) Name and physical address of the school in which he is a student.

21 (e) Two forms of proof of residence for each residential address provided,
22 including but not limited to a driver's license, bill for utility service, and bill for
23 telephone service. If those forms of proof of residence are not available, the offender
24 may provide an affidavit of an adult resident living at the same address. The affidavit
25 shall certify that the affiant understands his obligation to provide written notice
26 pursuant to R.S. 15:542.1.4 to the appropriate law enforcement agency with whom
27 the offender last registered when the offender no longer resides at the residence
28 provided in the affidavit.

29 (f) The crime for which he was convicted and the date and place of such

1 conviction, and if known by the offender, the court in which the conviction was
2 obtained, the docket number of the case, the specific statute under which he was
3 convicted, and the sentence imposed.

4 (g) A current photograph, fingerprints, palm prints, and a DNA sample.

5 (h) Telephone numbers, including fixed location phone and mobile phone
6 numbers assigned to the offender or associated with any residence address of the
7 offender.

8 (i) A description of every vehicle registered to or operated by the offender,
9 including license plate number and a copy of the offender's driver's license or
10 identification card.

11 (j) Social security number and date of birth.

12 (k) A description of the physical characteristics of the offender, including but
13 not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or
14 other identifying marks on the body of the offender.

15 (l) Every e-mail address, online screen name or other online identity used by
16 the offender to communicate on the Internet.

17 (m) Temporary lodging information regarding any place where the offender
18 plans to stay for seven or more days and the length of the stay.

19 (n) Travel and immigration documents, including but not limited to passports
20 and documents establishing immigration status.

21 (2) The offender shall register with the sheriff and police chief in each of
22 his/her residence(s) and with the sheriff of the parish in which the offender is
23 employed and attends school and, for initial registration only, with the sheriff in the
24 parish of the offender's conviction in accordance with R.S. 15:542. If the offender
25 lives, works, or attends school in Orleans Parish, however, the offender shall register
26 with the New Orleans Police Department and not with the sheriff of that parish.

27 (3) If the offender is incarcerated as a result of the crime, the offender shall
28 provide all information listed in Paragraph (1) of this Section to the Department of
29 Public Safety and Corrections, or if a juvenile, to the office of juvenile justice, within

1 ten (10) days prior to release from confinement. The offender shall still appear in
2 person at the sheriff's office within three (3) business days of release from
3 confinement.

4 (4) During the declaration of an emergency, any offender required to register
5 who enters an emergency shelter shall, within the first twenty-four (24) hours of
6 admittance, notify the management of the facility, the chief of police of the
7 municipality, and the sheriff of the parish in which the shelter is located of his sex
8 offender status in accordance with R.S. 15:543.2.

9 (5) An offender required to register has a duty to provide notice of change of
10 address or other registration information to the sheriff of the parish of residence
11 within three business days. If the new or additional residence is located in a different
12 parish, then offender must register with the sheriff of the parish in which the new or
13 additional residence is located. The offender shall also send written notice within
14 three business days of re-registering in the new parish to the sheriff of the parish of
15 former registration in accordance with R.S. 15:542.1.2.

16 (6) The offender shall give notice of the crime for which he was convicted,
17 his name, address, a physical description, and a photograph to the following in
18 accordance with R.S. 15:542(B)(1):

19 (a) At least one person in every residence or business within a one-mile
20 radius in a rural area and a three-tenths of a mile radius in an urban or suburban area
21 of the address of the residence where the offender will reside upon release, including
22 all adult residents of the residence of the offender.

23 (b) The superintendent of the school district where the offender will reside.

24 (c) The lessor, landlord, or owner of the residence or the property on which
25 he resides.

26 (d) The superintendent of the park, playground, and recreation districts within
27 the designated area where the offender will reside only if the victim was under
28 eighteen (18) years of age at the time of the commission of the offense.

29 *Any person convicted of a violation of R.S. 14:89 shall not have to include

1 a photograph in the notice described in Paragraph (b) of this Subsection.

2 *Juveniles adjudicated for a crime requiring registration DO NOT have to
3 provide this community notice.

4 (7) In accordance with R.S. 15:542.1, community notification shall be given
5 by mail within twenty-one days of the date of conviction, if the offender is not taken
6 into custody at the time of conviction, and within twenty-one days of the date of
7 release from confinement if sentenced to a term of imprisonment. This notification
8 shall also occur within twenty-one days of each time the offender changes his
9 residence within twenty-one days of establishing residency in the new locale. This
10 notification shall also occur at least every five years, whether or not the offender
11 changes residences. This notification shall occur in each jurisdiction in which the
12 offender regularly resides.

13 *Juveniles adjudicated for a crime requiring registration DO NOT have to
14 provide this community notice.

15 (8) In accordance with R.S. 15:542.1, community notice shall be published
16 on two (2) separate days within this period in the official journal of the governing
17 authority of the parish where the offender plans to reside, unless ordered to be
18 published in a different journal or newspaper by the sheriff or local ordinance.

19 *Those convicted of R.S. 14:92(A)(7) or 89 are not required to publish notice
20 in the newspaper or official journal as provided in Paragraph (8).

21 *Juveniles who are adjudicated for a crime requiring registration DO NOT
22 have to provide this community notice.

23 (9) In accordance with R.S. 15:542.1(B), an offender who provides
24 recreational instruction to persons under the age of seventeen (17) shall post a notice
25 in the building or facility where such instruction is being given.

26 (10) In accordance with R.S. 15:543, an offender must, within ten (10) days
27 prior to release from a correctional facility, provide a photograph and other relevant
28 information noted above to the Department of Public Safety and Corrections and the
29 office of juvenile justice for purposes of the State Sex Offender and Child Predator

1 Registry.

2 (11) In accordance with R.S. 15:542.1.2, if an offender changes his place of
3 residence or establishes a new or additional residence, he shall appear in person at
4 the office of the sheriff of his parish of residence where he is currently registered
5 within three (3) business days of the change to register the new address. If the new
6 address is located in a different parish, then the offender shall also appear in person
7 at the office of the sheriff of his new parish of residence within the same time period.
8 If the offender's parish of residence is in Orleans Parish, then the registration shall
9 take place at the New Orleans Police Department and not with the Orleans Parish
10 Sheriff.

11 (12) In accordance with R.S. 15:542.1.2, if an offender is absent from his
12 current address of registration for more than thirty (30) consecutive days or an
13 aggregate of thirty (30) days or more in a calendar year, and is physically present at
14 another address during that same period of time, the offender shall register in person
15 the new address as one of his addresses of residence. If the new address is in a parish
16 different from his current address, he shall also register in person with the sheriff of
17 the new parish within three (3) business days of the tolling of the time periods listed.
18 This requirement notwithstanding, the offender shall still notify the sheriff of one of
19 his parishes of residence in person if he is to take up temporary lodging for seven (7)
20 or more days. It is only after the thirty-day limit is exceeded that the new registration
21 shall occur.

22 (13) The offender shall also appear in person at the office of the sheriff of any
23 of his parishes of residence when there is a change in the offender's name, place of
24 employment, or enrollment. This appearance shall occur within three (3) business
25 days of the change. If the offender's address of residence is in Orleans Parish, this
26 registration update shall take place at the New Orleans Police Department and not
27 with the Orleans Parish Sheriff's Office.

28 **(14) The offender shall be prohibited from certain types of employment**
29 **in accordance with R.S. 15:553 for the duration of the registration period. A**

copy of this statute is provided to you with this notification.

(15) In accordance with R.S. 15:542(C), the offender shall update his registration annually on the anniversary of the initial registration by appearing in person at the office of each law enforcement agency with which he is required to register and shall pay an annual registration fee of sixty dollars (\$60.00).

(16) Failure to comply with any of these registration and notification requirements is a felony for which an offender shall be punished by a fine of up to one thousand dollars (\$1,000.00) and imprisonment at hard labor for not less than two years nor more than ten years without benefit of parole, probation, or suspension of sentence. Upon a second or subsequent conviction, the offender shall be punished by a fine of up to three thousand dollars (\$3,000.00) and imprisonment at hard labor for not less than five years, nor more than twenty years without benefit of parole, probation, or suspension of sentence.

(17) For those offenders who have been convicted of a sex offense as defined in R.S. 15:541 involving a victim who was under the age of thirteen (13) at the time of the offense, R.S. 14:91.2 is applicable which prohibits such offenders from residing or being present in certain locations. A copy of this statute is provided to you with this notification.

THUS DONE AND SIGNED this ____ day of _____, 20__ in
open court, in _____, Louisiana.

Judge, ____ Judicial District Court

I hereby certify that the above requirements have been explained to me, that I have received a copy of the above notice of sex offender registration and notification requirements, and a copy of the statutes providing for such requirements. I also understand that I will be subject to any changes made by the legislature to the registration laws from this day forward.

(Name of Sex Offender)

Defense Counsel Signature

* * *

§553. Prohibition of employment for certain sex offenders

A. It shall be unlawful for any person who is required to maintain registration pursuant to Chapter 3-B of Title 15 to operate any bus, taxicab, or limousine for hire.

B. It shall be unlawful for any person who is required to maintain registration pursuant to Chapter 3-B of Title 15 to engage in employment as a service worker who goes into a residence to provide any type of service.

C. It shall be unlawful for any person whose offense involved a minor child and who is required to maintain registration pursuant to Chapter 3-B of Title 15 to operate any carnival or amusement ride.

D. For the purposes of this Section, the following terms and phrases shall have the meanings ascribed to them:

(1) "Bus" means a motor vehicle with a seating capacity of six or more persons, exclusive of the operator, which is used in the transportation of passengers for hire, excluding any vehicle leased without the provision of a driver.

(2) "Carnival or amusement ride" means either of the following:

(a) A device that is intended to give amusement, excitement, pleasure, or thrills to riders whom the device carries along or around a fixed or restricted course or within a defined area.

(b) A structure that gives amusement, excitement, pleasure, or thrills to people who move around, over, or through the structure without the aid of a moving device integral to the structure.

(3) "Taxicab" means all motor vehicles for hire, carrying six passengers or less, including the driver thereof, which are subject to call from a garage, office, taxistand, or otherwise.

E. Any person who violates the provisions of this Section shall be fined not more than ten thousand dollars and imprisoned for not less than five years nor more than ten years at hard labor. Three years shall be served without the benefit of parole, probation, or suspension of sentence.

F. The provisions of this Section shall apply only to a person ordered by the court to register as a sex offender on or after August 15, 2010.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jeanne C. Johnston.

DIGEST

Cheek (SB 780)

Present law (Habitual Offender Law) provides that for anyone convicted of a prior felony, the penalty for a second felony conviction that would have been punishable by a term of less than his natural life if it were a first conviction shall be imprisonment for not less than one-half of the longest term and not more than twice the longest term prescribed for a first conviction.

Proposed law retains present law and additionally provides that if the prior and second felonies are sex offense felonies, as defined by present law, that involve victims under the age of 18, the person shall be imprisoned for the remainder of his natural life without benefit of parole, probation, or suspension of sentence. Provides that this penalty shall apply only to second felony offenses occurring on or after August 15, 2010.

Present law requires the court to provide written notification to any person convicted of a sex offense and a criminal offense against a victim who is a minor of the registration requirements and the notification requirements as provided in present law.

Proposed law maintains present law and adds that the court shall notify the person convicted of a sex offense and criminal offense against a victim who is a minor that certain types of employment is prohibited for the duration of registration.

Present law provides for the duration of registration and notification period for sex offenders.

Present law provides that a person required to register pursuant to law who was convicted of a sexual offense against a victim who is a minor shall register and maintain his registration and provide community notification for a period of 25 years, or the duration of the lifetime of the offender as provided by law, unless the conviction is reversed, set aside, or vacated.

Proposed law prohibits certain sex offenders from maintaining certain types of employment.

Proposed law provides that it shall be unlawful for any person who is required to maintain registration pursuant to law to operate any bus, taxicab, or limousine for hire. Further prohibits any person who is required to maintain registration to engage in employment as a service worker who goes into a residence to provide any type of service.

Proposed law provides that it will be unlawful for any person whose offense involved a minor child and who is required to maintain registration pursuant to law to operate any carnival or amusement ride.

Proposed law provides for definitions.

Proposed law provides for penalties if a sex offender who is required to register pursuant to law engages in certain types of employment. Further provides that the provisions of proposed law will apply only to persons ordered by the court to register as a sex offender on or after August 15, 2010.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:529.1(A)(1)(a) and 543.1; adds R.S. 15:553)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill.

1. Prohibits any person whose offense involved a minor child and who is required to maintain registration pursuant to law to operate any carnival or amusement ride.
2. Deletes the proposed duration of registration and notification period.
3. Provides for application of certain offenses occurring on or after 8/15/10.

Senate Floor Amendments to engrossed bill.

1. Adds greater penalty if prior and second felony are sex offense felonies and makes such penalty applicable only to second felony offenses occurring on or after 8/15/10.
2. Restricts applicability of provisions relative to prohibition of certain employment for certain sex offenders to persons ordered by the court to register as a sex offender on or after 8/15/10.